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SEP 08 2008

IN THE UNITED STATES DISTRICT COURT

FOR THE

Western

DISTRICT OF TEXAS

San Antonio

DIVISION

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY [Signature]
DEPUTY CLERKForm To Be Used By A Prisoner in Filing a Complaint
Under the Civil Rights Act, 42 U.S.C. § 1983

Bryan OSCAR Cooper #1043427

Plaintiff's name and ID Number

John B. Connally Unit, 899 F.M. 632
Kenedy, Texas 78119

Place of Confinement

SA08CA0738XR

CASE NO:

(Clerk will assign the number)

Paul Morales, John B. Connally Unit,
899 F.M. 632, Kenedy, Texas 78119

Defendant's name and address

Debra Gloor, John B. Connally Unit,
899 F.M. 632, Kenedy, Texas 78119

Defendant's name and address

Juan Trevino, John B. Connally Unit,
899 F.M. 632, Kenedy, Texas 78119

Defendant's name and address

(DO NOT USE "ET AL.")

INSTRUCTIONS - READ CAREFULLY

NOTICE:

Your complaint is subject to dismissal unless it conforms to these instructions and this form.

1. To start an action you must file an original and one copy of your complaint with the court. You should keep a copy of the complaint for your own records.
2. Your complaint must be legibly handwritten in ink, or typewritten. You, the plaintiff, must sign and declare under penalty of perjury that the facts are correct. If you need additional space, **DO NOT USE THE REVERSE SIDE OR BACK SIDE OF ANY PAGE.** ATTACH AN ADDITIONAL BLANK PAGE AND WRITE ON IT.
3. You must file a separate complaint for each claim you have unless the various claims are all related to the same incident or issue or are all against the same defendant, Rule 18, Federal Rules of Civil Procedure. Make a short and plain statement of your claim, Rule 8, Federal Rules of Civil Procedure.
4. When these forms are completed, mail the original and one copy to the Clerk of the United States Court for the appropriate District of Texas in the Division where one or more named defendants are located, or where the incident giving rise to your claim for relief occurred. The list labeled as "VENUE LIST" is posted in your unit law library. It is a list of Texas prison units indicating the appropriate District Court, the Division and an address of the Divisional Clerks.

FILING FEE AND IN FORMA PAUPERIS

1. In order for your complaint to be filed, it must be accompanied by the filing fee of **\$350.00**.
2. If you do not have the necessary funds to pay the filing fee in full at this time, you may request permission to proceed *in forma pauperis*. In this event you must complete the application to proceed *in forma pauperis* (IFP), setting forth the information to establish your inability to prepay the fees and costs or give security therefore. You must also include a six (6) month history of your Inmate Trust Account. You can acquire the application to proceed IFP and appropriate Inmate Account Certificate from the law library at your prison unit.
3. 28 U.S.C. 1915, as amended by the Prison Litigation Reform Act of 1995 (PLRA), provides, "...if a prisoner brings a civil action or files and appeal *in forma pauperis*, the prisoner shall be required to pay the full amount of a filing fee." Thus, the Court is required to assess and, when funds exist, collect, the entire filing fee or an initial partial filing fee and monthly installments until the entire amount of the filing fee has been paid by the prisoner. If you submit the application to proceed *in forma pauperis*, the Court will apply 28 U.S.C. 1915 and, if appropriate, assess and collect the entire filing fee or an initial partial filing fee, then monthly installments from your Inmate Account, until the entire **\$350** filing fee has been paid.
4. If you intend to seek *in forma pauperis* status, then do not send your complaint without an Application to Proceed IFP, and the Certificate of Inmate Trust Account. Complete all the essential paperwork before submitting it to the Court.

CHANGE OF ADDRESS

It is your responsibility to inform the Court of any change of address and its effective date. Such notice should be marked **"NOTICE TO THE COURT OF CHANGE OF ADDRESS"** and shall not include any motions(s) for any other relief. Failure to file a NOTICE TO THE COURT OF CHANGE OF ADDRESS may result in the dismissal of your complaint pursuant to Rule 41(b), Federal Rules of Civil Procedures.

I. PREVIOUS LAWSUITS:

- A. Have you filed any other lawsuits in the state or federal court relating to imprisonment? _____ YES ✓ NO
- B. If your answer to "A" is yes, describe each lawsuit in the space below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, giving the same information.)
 1. Approximate date of filing lawsuit: N/A
 2. Parties to previous lawsuit:

Plaintiff(s): N/A

Defendant(s): N/A
 3. Court (If federal, name the district; if state, name the county) N/A
 4. Docket Number: N/A
 5. Name of judge to whom case was assigned: N/A
 6. Disposition: (Was the case dismissed, appealed, still pending?)

N/A
 7. Approximate date of disposition: N/A

II. PLACE OF PRESENT CONFINEMENT: John B. Connally unit

III. EXHAUSTION OF GRIEVANCE PROCEDURES:

Have you exhausted both steps of the grievance procedure in this institution? V YES NO

Attach a copy of the Step 2 grievance with the response supplied by the prison system.

IV. PARTIES TO THE SUIT:

A. Name of address of plaintiff: Bryan Oscar Cooper, TDCJ No. # 1043427, John B. Connally Unit, 899 E.M. 632, Kenedy, Texas 78119

B. Full name of each defendant, his official position, his place of employment, and his full mailing address.

Defendant #1: Paul Morales [Senior Warden] John B. Connally Unit, 899 E.M. 632, Kenedy, TX 78119. Sued in his Individual & Official Capacity.

Briefly describe the act(s) or omission(s) of this defendant, which you claimed harmed you.

Took no action to resolve grievances, Complaint Letters or disciplined defend

Defendant #2: Debra Gloor [Medical Facility Admin Mgr] John B. Connally Unit, 899 E.M. 632, Kenedy, TX 78119 Sued in her Individual Capacity.

Briefly describe the act(s) or omission(s) of this defendant, which you claimed harmed you.

Took no action to resolve complaints sent by Plaintiff.

Defendant #3: Juan Trevino, [correctional officer] John B. Connally Unit, 899 E.M. 632, Kenedy, TX 78119. Sued in his Individual & Official Capacity.

Briefly describe the act(s) or omission(s) of this defendant, which you claimed harmed you.

Deliberately Indifferent for assaulting Plaintiff (that Fractured Ribs, etc.)

Defendant #4: J. Garcia [Step two Griev Respondent] P.O. Box 99, Huntsville, TX 77342-0098. Sued in his Individual & Official Capacity.

Briefly describe the act(s) or omission(s) of this defendant, which you claimed harmed you.

Took no action to resolve Grievance Complaint in spite of knowing force was

Defendant #5: Hipolito M. Rodriguez [Sergeant] John B. Connally Unit, 899 E.M. 632, Kenedy, TX 78119, Sued in his Individual & Official Capacity.

Briefly describe the act(s) or omission(s) of this defendant, which you claimed harmed you.

Covered up official misconduct by not reporting it

Cont. From Pg 3
Parties To Suit:

Defendant #6: John Doe One [Sergeant] John B. Connally Unit, 899 F.M. 632, Kenedy, Texas 78119. Sued in his Individual & Official Capacity. Defendant conspired to cover up the official misconduct by Not Reporting it.

Defendant #7: John Doe Two [Correctional Medical Infirmar officer See Paragraph (3)] John B. Connally Unit, 899 F.M. 632, Kenedy, Texas 78119. Sued in his Official & Individual Capacity. Defendant witness assault took no action to stop the assault and covered up the the Misconduct through conspiracy by Not reporting it.

Defendant #8: Robert G. Cantu [Corr officer] John B. Connally Unit, 899 F.M. 632, Kenedy, Texas 78119. Sued in his Individual & Official Capacity. Defendant witness assault, Partisipated by Holding Plaintiff and took no a to stop the assault or Report it.

V. STATEMENT OF CLAIM:

State here in a short and plain statement the facts of your case, that is, what happened, where did it happen, when did it happen, and who was involved. Describe how each defendant is involved. You need not give any legal argument or cite any cases of statutes. If you intent to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach extra pages if necessary, but remember that the complaint must be stated briefly and concisely. IF YOU VIOLATE THIS RULE, THE COURT MAY STRIKE YOUR COMPLAINT.

[1] Monday December 31st, 2007, at approx 209 am I was pulled out of my cell by officer J. Trevino [whos name was kept from me by Trevino, his supervisor Rodriguez and other officers during the Time of the Incident] to go to Medical to receive my insulin. As I was being handcuff, I notice officer Trevino Putting the Handcuffs on Backwards and tight. [this cutted into my Rist] so I said, "Boss Boss, you put them on too tight." Instead of officer Trevino acknowledging this, he Grabed [continued on Pg 4(A) statement of Claim]

VI. RELIEF: State briefly exactly what you want the court to do for you. Make no legal arguments. Cite not cases or statutes.

[34] The Actions of defendant Trevino in using Physical Force against Plaintiff without [continue on Pg 4(J) Relief

VII. GENERAL BACKGROUND INFORMATION:

A. State, in complete form, all names you have ever used or been known by including any and all aliases:

Bryan oscar Cooper

B. List all TDCJ-ID identification numbers you have ever been assigned and all other state or federal prison or FBI numbers ever assigned to you, if know to you.

No. 1043627

VIII. SANCTIONS:

A. Have you been sanctioned by any court as a result of any lawsuit you have filed? ____ YES ☒ NO

B. If your answer is "yes", give the following information for every lawsuit in which sanctions were imposed. (If more than one, use another piece of paper and answer the same questions.)

1. Court that imposed sanctions (If federal, give district and division): N/A

2. Case Number: N/A

3. Approximate date sanctions were imposed: N/A

4. Have the sanctions been lifted or otherwise satisfied? ~~YES~~ NO N/A

Cont from Pg 4

Statement of Claim

My other hand to Put Cuffs on. I explained to Trevino that I have A double hand Cuff Pass. Trevino Said Let me See it? When I attempt to get my Pass, Trevino Stops me and Losen the Cuffs [See Mon Dec 31, 07, 2:09 am 8L47 Cell Security Tape held by TBCJ Connally Unit Prison officials]

[2] While heading to Medical, I notice Trevino kept Bumping me into the Fence along the Walkway. I didnt say anything but kept wondering Why he was doing this.

[3] Once at 10 Bldg, Medical Infirmary officer [Unknown name John Doe two] told officer Trevino that he had 2 inmates in the back [inside Infirmary] upon Trevino hearing this he began Pulling me toward the Coat Rack.

[4] The Infirmary officer ask my name and number to Log in his book. When I turned my head around to tell the infirmary officer this, Trevino for no reason Grabed me by the back of my Coat collar and Pulled me toward the Dental door. Than Trevino Pushed his Body against mine, Pinning me to the Dental door.

[5] When the Infirmary officer Said Whats up Cooper? I Said this Fools Tripping. Thats when officer Trevino Said, "I'll Show You Whats Fucking Tripping. You just refused your Insulin!" I said, "I need my Insulin". Trevino said, "You aint getting shit!"

Cont from Pg 4 (A)
Statement of Claim

[6] After Trevino said this he began pulling me toward Leaving Medical. As I approached the door one of the two inmates standing in Medical [who witness the Events] tell me to Lay down on the Floor.

[7] While on the Floor, Trevino upon seeing this, got Angry Jumped on Top of me with his Body and started Smashing [Pinning] my head to the Floor. At that point another officer, "Cantu" [who was Escorting two other inmates] walked over to assist Trevino in Picking me off the Floor.

[8] When Trevino again Proceeded taking me out of Medical, I asked the Infirmiry officer to call a Lieutenant, Trevino tells me I wont see any Rank and Slamed me again to the Floor.

[9] While on the Floor Trevino Got on Top of me, took his stick and Pressed it into my Neck, took his knee and Pressed it into my back [which caused him to Lose his Ballance and Drop his stick] as I Lay there Cuffed and unresisting. Officer Cantu walks over Grabed and held my Leggs until Trevino got up from the Fall Caught his Breath [from what he was doing to me] then both officers Picked me off the Ground and Put me up against the wall.

[10] I again asked Infirmiry officer to call Rank. At which the Infirmiry officer said Rank is on the way. At that point Trevino Grabed me and took me

Cont from Pg 4 (B)

Statement of claim

into the Medical Infirmary for my Insulin.

[11] While in the Infirmary, Nurse White walks over to give my Insulin. Trevino tells her don't get too close he was drinking Hooch. I tell Trevino, I don't drink. Trevino tells me, shut the fuck up Nigger.

[12] At which time Seg Sgt [name unknown] came running into the Infirmary and said, "What's going on?" When I tried to explain, the Sgt tells me, "You're going to do what the fuck this officer says?" Then ask Nurse White if I assaulted her? Nurse White says No and ask me why my eyes were so red? I stated it was because the officers jumped on me [Officer Trevino] in the Lobby out there. Upon the Sgt hearing this, he tells Trevino to take me back to the Building.

[13] When I entered back to the Building, I spoke to Sgt Rodriguez, telling him, "I'm having problems with this officer [Trevino name unknown at the time] Sgt Rodriguez got up and followed up back to my Pod housing [Pod 2 Section]

[14] While at two Section Entrance, I tried to explain to Sgt Rodriguez what happen, But Sgt Rodriguez tells me, "You're going to your cell in this order and in this fashion."

[15] When I was put in my cell, I ask Sgt Rodriguez for the Name of this officer? [Trevino] Sgt

Cont from Pg 4 (c)
Statement of Claim

Rodriguez said, "You're Not Jacking the Cuffs." I said, "No, Give me the Name of the officer." The Sgt said, "Give me the Fuck-ing Cuffs." I said give me the officers Name? Sgt Rodriguez Put his Foot on the Rail, tied his shoe and turned around quickly and said, "Give me my Fucking Cuffs." I again said, "Give me the Bosses Name. I then turned Put my hand through the Food Tray slot and Gave him the Cuffs. They held my arm took off the Cuffs and as they were Leaving, I ask them to get a Lt.

[16] Afterward, I told my Cellie what happen and layed down when a Lt didnt come [due to hurting] showed my Cellie my Dislocated Elbow, and said I need Medical attention because my Ribs Feels Broke. My Cellie Immediately acted by telling other Inmates who Banged on the Pod door for help.

[17] When Sgt Coggins came to the door, he Looked at my Arm then said Let me Call Medical, Left, and Later returned to take me to Medical.

[18] On the way, we stoped at the Front Desk due to shift Changing of officers. Sgt Rodriguez Came from behind the cage to meet me and Sgt Coggins. Sgt Rodriguez ask Sgt Coggins what happen? Sgt Coggins tells Rodriguez he had to get me to Medical. Sgt Coggins ask day Sgt Camden if they had someone to Escort me? Camden had an officer Rodriguez take me.

[19] As officer Rodriguez Escorted me to Medical

Cont. from Pg 4(b)
Statement of Claim

Sgt Coggins, Sgt Rodriguez, and Officer Trevino followed behind.

[20] When we stopped at 10 Gate, I was met by a Lt Paiz and Capt Thomas. Capt Thomas wanted to see my Arm, I showed him. Then Capt Thomas asked who did this? I replied, "That Boss Right there," [Officer Trevino, who had gone through the ODR Gate to go Home]

[21] Capt Thomas signaled Sgt Coggins to stop Officer Trevino and tell him to wait at one Building, then said to Lt Paiz to get a Video Camera and started walking toward one Building.

[22] As I proceeded to Ten Building Medical with Lt Paiz, Sgt Rodriguez and Officer Rodriguez, Lt Paiz got the Video Camera and said he needed a Camera Operator, so Sgt Rodriguez took the Camera, turned it on, ask me for my Name & Number, then turned to Lt Paiz who stated for the Camera that he is Lt Paiz who was Investigating a Non Reported Use of Force, and that I'm being Looked at by Connally Medical Staff. Asked the Medical Nurse her Name and Position. The Medical Nurse "P. Minor," took my Weight & Blood Pressure, Looked at my Arm and Ribs and said that this was a serious Injury and would have to call a Provider Staff Member to come in. Lt Paiz called Capt Thomas, then spoke on the Camera that I was going to be Placed in the Medical holding cell until I could be

Cont from Pg 4(E)
Statement of Claim

transferred to the Medical Hospital.

[23] While at Kaiser Hospital, two office of the Inspector General Investigators spoke to me [a Mr Thomas or Thompson and a Spanish Investigator] ask me how I was feeling? Looked at my Arm, and Ribs.

[24] Investigator Thomas ask the Doctor if my Rib was Broke? The Doctor said he didnt see anything Broke but will Look at an X Ray again, and Left with Investigator Thomas. Returned Later and said that he would Put my Arm in a sling because my Elbow was dislocated and that my Rib would have to heal on their own due to nothing he could do, except Give me a shot for the Pain and Pain Medication. [See Griev No. 2008072486 Attach as Exhibit (A)]

[25] Defendant Juan Trevino While Working Under Color of State Law, Willfully, Knowingly, and Intentionally in Bad Faith Assaulted Plaintiff [by Major use of Force] to Cause Plaintiff to suffer a Dislocated Elbow and Crack Rib,

[26] Trevino's actions was Malicious, Sadistic, and with Deliberate Indifference in Violation of Plaintiff's 8th Amendment Constitutional Right.

[27] The Crux of the Issues Leading to the Assault Started July 21 2007, when officer Melinda Hudson

4(F)

Cont from Pg 4 (E)
Statement of Claim

denied my Insulin, she also filed a False Disciplinary Report [to cover up her misconduct] Touching off more Harassment and Retaliation each time I went to obtain my Insulin at the Medical Infirmary. [See Griev. No. 2007201143 attach as Exhibit (B)]

[28] Not only did officer Hudson denied my Insulin July 21, 2007, she also encouraged other officials [Capt Smith & Sgt Camden] to do the same [See Griev No. 2007195113 attach as Exhibit (C)]

[29] on August 30, 2007, when I entered the Medical Infirmary, I was denied again my Insulin by officer Hudson, being dragged by Security officers out of the Infirmary in Retaliation by officer Hudson [due to filing Grievance complaints for previously denying my Insulin] and conspired by Medical Staff Nurses Arlene Zmeskal, Shirley Pfeil who allowed this conduct to occur on a number of times. [See Griev No 2008008308 attach as Exhibit (D)]

[30] on September 13, 2007, Medical Staff Nurse Arlene Zmeskal once again was involved for allowing Security to deny my Insulin due to my past complaints against her and Medical [which Facility Administrator, "Bebra Gloor" allowed such conduct to continue in spite of being aware of the problem from requests and grievances to complain] (See Griev No. 2008013623 attach as Exhibit (E))

Cont. from Pg 4 (A)
Statement of Claim

[31] On September 17, 2007, retaliation was pushed to the point to where officers such as "Adam Cruz" would come to my cell with threats of Intimidation to keep me from receiving my Life Saving Insulin by saying words as, "If I go to get my Insulin, Officer Hudson is there". [See Griev. No 2008018648 attach as Exhibit (F)]

[32] All Defendants acted under color of Law whereby they violated State & Federal Law;

- (b) All Defendants knowingly and wantonly violated the Constitutions of both Texas and the United States under the 1st, 8th, and 14th Amendment;
- (c) All Defendants are guilty for Harassment, retaliation and conspiracy against Plaintiff;
- (d) All Defendants are deliberately indifferent to Plaintiff's medical needs and condition.

[33] Plaintiff's Inmate witnesses

- (1) Monval Parker No. 1305229 [See attach Exh (G)]
- (2) Regionald Sweed No. 1099247 [See attach Exh (H)]
- (3) Jerry Wanzel No. 855976 [See attach Exh (I)]
- (4) Michael Perez No. 4861277 [See attach Exh (J)]
- (5) Christibal Martinez No. 1134440 [See attach Exh (K)]
- (6) Philip Logan H. No 1160207 [See attach Exh (L)]

Cont. from Pg[4]
Relief

need or Provocation, and was done Maliciously and Sadistically and constitute Cruel and Unusual Punishment in Violation of the Eighth Amendment of the United States Constitution.

[35] The Failure of Defendant Morales to resolve Grievance Complaints, Complaint Letters or take disciplinary or other action to curb the Known Pattern of Physical abuse of Inmates by defendant Trevino constitute deliberate Indifference, and contributed to and proximately caused the above described Violation of Eighth Amendment rights and assault and battery. Furthermore, defendant Morales was aware of Plaintiff Experiencing Problems Long before the Assault [Major use of Force] occurred by Trevino but took no action to correct Problems Plaintiff was experiencing with Medical Dept [the same Place where the assault occurred] (refer to attach Exhibit(s) (A) & (F) [See also Griev. No. 2008081295 & 2008105544 Both attach as Exhibit(s) (D), & (N)]

[36] Defendant Debra Gloor took no action as the John B. Connally Unit Medical Administrative Supervisor to resolve Various Grievance Complaints, requests and Complaint Letters to complain of denial of medical treatment before and after being assaulted at the Medical by officer defendant Trevino, constitute deliberate Indifference to Plaintiff's safety & serious Medical needs in violation of the Eighth Amendment.

Cont, from Pg 4(J)
Relief

[37] Defendant Canto witness the Assault, Participated in the Assault, failed to intervene to stop the assault and failed to Report misconduct of Trevino in assaulting Plaintiff, constitute deliberate Indifference to Violate Plaintiffs Eighth Amendment Rights.

[38] Defendant Rodriguez Conspired to Cover up the assault and failed to Report Misconduct of Trevino in the assault of Plaintiff constitute deliberate Indifference to Violate Plaintiffs Eighth Amendment Right.

[39] Defendant John Doe two witness the Assault, failed to intervene to stop the assault and failed to Report Misconduct constitute deliberate Indifference to Violate Plaintiffs Eighth Amendment Right.

[40] Defendant John Doe one failed to Report Misconduct of Trevino constitute deliberate Indifference in Violation of Plaintiffs Eighth Amendment Right.

[41] Award Compensatory Damages against each defendant;

[42] Award of Punitive Damages against each defendant;

[43] Award Pre & Post Judgment Interest to Plaintiff against each defendant;

[44] Award reasonable Attorney Fees to Plaintiff against each defendant;

[45] order defendants to pay all Court Costs accumulated in this case;

[46] Award any other such relief (equitable relief) as deemed just, proper and fair by Law to Plaintiff;

4(K)

Cont. from Pg 4(k)
Relief

- [47] To order an Injunction / Restraining order to stop defendants from their continued Harassment / Retaliation;
- [48] Appointment of Counsel because Plaintiff who is Black Cant Read / Write English well [see attach Motion for Appointment Counsel as Exhibit (2)]
- [49] Trial by Jury on all issues.

- C. Has any court ever warned or notified you that sanctions could be imposed? YES ☒ NO
- D. If your answer is "yes", give the following information for every lawsuit in which warning was imposed. (If more than one, use another piece of paper and answer the same questions.)

1. Court that imposed warning (if federal, give the district and division): N/A
2. Case number: N/A
3. Approximate date warning were imposed: N/A

Executed on: _____
(Date)

Bryan Cooper
(Printed Name)

Bryan Cooper
(Signature of Plaintiff)

PLAINTIFF'S DECLARATIONS

1. I declare under penalty of perjury all facts presented in this complaint and attachment thereto are true and correct.
2. I understand if I am released or transferred, it is my responsibility to keep the Court informed of my current mailing address and failure to do so may result in the dismissal of this lawsuit.
3. I understand that I must exhaust all available administrative remedies prior to filing this lawsuit.
4. I understand I am prohibited from bringing an *in forma pauperis* lawsuit if I have brought three or more civil actions in a Court of the United States while incarcerated or detained in any facility, which lawsuits are dismissed on the ground they were frivolous, malicious, or failed to state a claim upon which relief may be granted, unless I am under imminent danger or serious physical injury.
5. I understand even if I am allowed to proceed without prepayment of costs, I am responsible for the entire **\$350** filing fee and costs assess by the Court, which shall be deducted in accordance with the law from the inmate account by my custodian until the filing fee is paid.

Signed this 5 day of September, 2008.
(Day) (Month) (Year)

Bryan Cooper
(Printed Name)

Bryan Cooper
(Signature of Plaintiff)

WARNING: The Plaintiff is hereby advised any false or deliberately misleading information provided in response to the following questions will result in the imposition of sanctions. The sanctions the Court may impose include, but are not limbed to monetary sanctions and/or the dismissal of this action with prejudice.